

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PAUL G. SHEARER,

Plaintiff,

vs.

UNITED STATES OF AMERICA, DIRK
KEMPTHORNE, Secretary of the
Interior, the DEPARTMENT OF THE
INTERIOR, the NATIONAL PARK
SERVICE,

Defendants.

Case No. 3:03-cv-00263-JKS (consolidated)

ORDER

Paul G. Shearer seeks compensation for certain mining claims included within Denali National Park. Congress has provided a statutory mechanism for compensating owners of such claims who consent to a transfer of the claims to the government. Pub. L. No. 105-83, § 120, 111 Stat. 1543, 1564-66 (1997). The government seeks partial summary judgment to eliminate certain interests from consideration, for which Shearer seeks compensation. Docket No. 84.

Specifically, the government argues that as to some of the interests, Shearer did not own the interest at the relevant time; for other interests, the government claims that the interests were not patented or unpatented mining claims and, thus, Congress has not provided a mechanism for compensation. *See* Docket Nos. 84 (motion); 85 (supporting memorandum). Shearer has not answered the motion; instead, he has filed a motion to strike, arguing that the law of the case, *i.e.*, prior rulings, preclude the government's motion. Docket No. 88. The government opposes the motion to strike. Docket No. 90. The earlier orders, to which Shearer refers, do not address the issues raised in the motion at Docket No. 84.

IT IS THEREFORE ORDERED:

The motion to strike at **Docket No. 88** is **DENIED**. Shearer shall file an opposition to the government's motion at Docket No. 84 on or before Monday, August 21, 2006. If a timely opposition is filed, the government may reply in conformity with D. Ak. LR 7.1(e).

Dated at Anchorage, Alaska, this 3rd day of August 2006.

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge

ORDER

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